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**Deutsche Post Global Mail, Ltd., formerly known as
Yellowstone International Mailing, Inc., a
Wholly Owned Subsidiary of Deutsche Post and
Manufacturing, Production & Service Workers
Union, Local No. 24, AFL-CIO. Case 13-CA-
39347**

July 27, 2001

DECISION AND ORDER

BY CHAIRMAN HURTGEN AND MEMBERS LIEBMAN
AND TRUESDALE

Pursuant to a charge filed on May 9, 2001, and an amended charge filed May 24, 2001, the General Counsel of the National Labor Relations Board issued a complaint on May 30, 2001, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain following the Union's certification in Case 13-RC-20399.¹ (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint.

On June 18, 2001, the General Counsel filed a Motion for Summary Judgment. On June 20, 2001, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

In its answer the Respondent admits its refusal to bargain, but attacks the validity of the certification on the basis of its contention that no substantial and representative complement of employees existed at the time of the unit hearing or the Board's direction of election.²

¹ We note that the General Counsel's Motion for Summary Judgment and the complaint inadvertently referred to this proceeding as case 13-RC-20339.

² The Respondent's answer also asserts that the Board's Decision and Certification of Representative in Case 13-RC-20399, issued March 15, 2001, has created an unacceptable degree of confusion and uncertainty because footnote 1 of that decision refers to election objections that are not related to the case at issue. On July 12, 2001, the Board issued an erratum in that case, noting that an incorrect version of the Certification had issued, and substituting the correct version of the Supplemental Decision and Certification of Representative in Case 13-RC-20399.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding.³ The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

About February 2001, Yellowstone International Mailing, Inc., a wholly owned subsidiary of Deutsche Post, became known as Deutsche Post Global Mail, Ltd. and continues to operate as such. The Respondent, Deutsche Post Global Mail Ltd., a Delaware corporation, with an office and place of business in Elk Grove Village, Illinois, has been engaged in the business of furnishing international mailing and distribution of published and printed material. During the calendar year preceding the issuance of the complaint, the Respondent, in conducting its operations, derived gross revenues in excess of \$500,000 and received goods and services valued in excess of \$50,000 at its Elk Grove, Illinois location directly from points located outside the State of Illinois. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Certification

Following the election held November 15 and 16, 2000, the Union was certified on March 15, 2001, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time production, maintenance, and warehouse employees, including Heidelberg Press Operators, Inventory, Mechanics, Mechanics' helpers, Platform People, Shipping and Receiving, Truck Drivers, Video Jet Operators, and Lead People, but excluding all foremen, salesmen, executive employees, office clericals and guards, professional employees and supervisors as defined in the Act.

³ The Board's Decision on Review of the Regional Director's Decision and Order is published at 332 NLRB No. 35 (2000).

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. Refusal to Bargain

Since May 1, 2001, the Union has requested the Respondent to bargain and, since May 4, 2001, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By refusing on and after May 4, 2001, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, Deutsche Post Global Mail, Ltd., formerly known as Yellowstone International Mailing, Inc., a wholly owned subsidiary of Deutsche Post, Elk Grove Village, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with Manufacturing, Production & Service Workers Union, Local No. 24, AFL-CIO, as the exclusive bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate

unit on terms and conditions of employment, and if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time production, maintenance, and warehouse employees, including Heidelberg Press Operators, Inventory, Mechanics, Mechanics' helpers, Platform People, Shipping and Receiving, Truck Drivers, Video Jet Operators, and Lead People, but excluding all foremen, salesmen, executive employees, office clericals and guards, professional employees and supervisors as defined in the Act.

(b) Within 14 days after service by the Region, post at its facility in Elk Grove Village, Illinois, copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 13 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 4, 2001.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. July 27, 2001

Peter J. Hurtgen, Chairman

Wilma B. Liebman, Member

John C. Truesdale, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

⁴ If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX
NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Manufacturing, Production & Service Workers Union, Local No. 24, AFL-CIO, as the exclusive representative of the employees in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and

conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time production, maintenance, and warehouse employees, including Heidelberg Press Operators, Inventory, Mechanics, Mechanics' helpers, Platform People, Shipping and Receiving, Truck Drivers, Video Jet Operators, and Lead People, but excluding all foremen, salesmen, executive employees, office clericals and guards, professional employees and supervisors as defined in the Act.

DEUTSCHE POST GLOBAL MAIL, LTD., FORMERLY KNOWN AS YELLOWSTONE INTERNATIONAL MAILING, INC., A WHOLLY OWNED SUBSIDIARY OF DEUTSCHE POST